

AMENDED IN SENATE APRIL 20, 2006

SENATE BILL

No. 1798

Introduced by Senator Perata

February 24, 2006

An act to amend Section ~~21159.24~~ *21061.3* of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1798, as amended, Perata. California Environmental Quality Act: infill development.

The existing California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

Existing law exempts from CEQA a residential project on an infill site ~~within an urbanized area, that meets specified criteria, including that the site of the project is not more than 4 acres in total area and the project does not contain more than 100 residential units that meets specified criteria and defines the term "infill site" for this purpose as a site in an urban area that meets specified criteria, including that the immediately adjacent parcels are developed with qualified urban uses or a specified percentage of parcels adjacent to the perimeter area~~

are developed, as specified, and among other conditions, that no parcel within the site has been created within the past 10 years.

This bill instead would require the total area of the project site to be not more than 10 acres, and the project to not contain more than 200 units revise the definition of “infill site” to exclude, from the condition regarding the creation of a parcel, the merger of parcels by a redevelopment agency.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 21061.3 of the Public Resources Code is*
2 *amended to read:*

3 21061.3. “Infill site” means a site in an urbanized area that
4 meets either of the following criteria:

5 (a) (1) *The site has not been developed for qualified urban*
6 *uses and no parcel within the site has been created within the*
7 *past 10 years, unless the parcel was created as a result of the*
8 *merger of previously existing parcels to implement the plan of a*
9 *redemption agency, and one of the following apply to the*
10 *parcels adjacent to the site:*

11 (A) The immediately adjacent parcels are developed with
12 qualified urban uses. ~~or at~~

13 (B) At least 75 percent of the perimeter of the site adjoins
14 parcels that are developed with qualified urban uses and the
15 remaining 25 percent of the site adjoins parcels that have
16 previously been developed for qualified urban uses, ~~and the site~~
17 ~~has not been developed for urban uses and no parcel within the~~
18 ~~site has been created within the past 10 years.~~

19 (b) The site has been previously developed for qualified urban
20 uses.

21 ~~SECTION 1. Section 21159.24 of the Public Resources Code~~
22 ~~is amended to read:~~

23 ~~21159.24. (a) Except as provided in subdivision (b), this~~
24 ~~division does not apply to a project if all of the following criteria~~
25 ~~are met:~~

26 ~~(1) The project is a residential project on an infill site.~~

27 ~~(2) The project is located within an urbanized area.~~

28 ~~(3) The project satisfies the criteria of Section 21159.21.~~

1 ~~(4) Within five years of the date that the application for the~~
2 ~~project is deemed complete pursuant to Section 65943 of the~~
3 ~~Government Code, community-level environmental review was~~
4 ~~certified or adopted.~~

5 ~~(5) The site of the project is not more than 10 acres in total~~
6 ~~area.~~

7 ~~(6) The project does not contain more than 200 residential~~
8 ~~units.~~

9 ~~(7) Either of the following criteria are met:~~

10 ~~(A) (i) At least 10 percent of the housing is sold to families of~~
11 ~~moderate income, or not less than 10 percent of the housing is~~
12 ~~rented to families of low income, or not less than 5 percent of the~~
13 ~~housing is rented to families of very low income.~~

14 ~~(ii) The project developer provides sufficient legal~~
15 ~~commitments to the appropriate local agency to ensure the~~
16 ~~continued availability and use of the housing units for very low,~~
17 ~~low-, and moderate-income households at monthly housing costs~~
18 ~~determined pursuant to paragraph (3) of subdivision (h) of~~
19 ~~Section 65589.5 of the Government Code.~~

20 ~~(B) The project developer has paid or will pay in-lieu fees~~
21 ~~pursuant to a local ordinance in an amount sufficient to result in~~
22 ~~the development of an equivalent number of units that would~~
23 ~~otherwise be required pursuant to subparagraph (A).~~

24 ~~(8) The project is within one-half mile of a major transit stop.~~

25 ~~(9) The project does not include a single-level building that~~
26 ~~exceeds 100,000 square feet.~~

27 ~~(10) The project promotes higher density infill housing. A~~
28 ~~project with a density of at least 20 units per acre shall be~~
29 ~~conclusively presumed to promote higher density infill housing.~~
30 ~~A project with a density of at least 10 units per acre and a density~~
31 ~~greater than the average density of the residential properties~~
32 ~~within 1,500 feet shall be presumed to promote higher density~~
33 ~~housing unless the preponderance of the evidence demonstrates~~
34 ~~otherwise.~~

35 ~~(b) Notwithstanding subdivision (a), this division applies to a~~
36 ~~development project that meets the criteria described in~~
37 ~~subdivision (a), if any of the following occur:~~

38 ~~(1) There is a reasonable possibility that the project will have~~
39 ~~a project-specific, significant effect on the environment due to~~
40 ~~unusual circumstances.~~

~~(2) Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.~~

~~(3) New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.~~

~~(e) If a project satisfies the criteria described in subdivision (a), but is not exempt from this division as a result of satisfying the criteria described in subdivision (b), the analysis of the environmental effects of the project in the environmental impact report or the negative declaration shall be limited to an analysis of the project-specific effect of the project and any effects identified pursuant to paragraph (2) or (3) of subdivision (b).~~

~~(d) For the purposes of this section, “residential” means a use consisting of either of the following:~~

~~(1) Residential units only.~~

~~(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.~~